IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4620 OF 2005

Shri Nanasaheb Vasudeo Sangvikar ... Petitioner

V/s

Maharshi Karve Sri Shikshan Sanstha through its Secretary. ... Respondent

Mr. A.V. Anturkar for the petitioner.

Smt. S.S. Deshpande for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 13TH APRIL, 2006

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. The petitioner has preferred this petition against the order passed by the Presiding Officer, Pune/Shivaji University & College Tribunal, Pune, dismissing his appeal by order dated 22.11.2004 and confirming the order of termination passed by the Enquiry Committee dated 31.3.2003. The appeal was filed under Sec. 59 of the Maharashtra Universities Act, 1994.

3. The petitioner is M.A. (English) and M.C.J. The respondent is an educational institute running and conducting school and colleges mainly for women. The petitioner was appointed as a Lecturer in English in Shri Siddivinayak Arts & Commerce Mahila Mahavidhyalaya on 8.9.1997. He was interviewed and selected by statutory Selection Committee. The appointment of the petitioner was in clear and permanent vacancy which was again sanctioned by the University Authorities.

It was the case sought to be made out by the petitioner that he was working honestly and diligently to the satisfaction of the management, however, inspite of his satisfactory work, the respondent management issued a statement of allegation, chargesheet, suspension order dated 22.8.2002 and suspended him with immediate effect. Thereafter an enquiry committee consisting of G.N. Joglekar, advocate and Vishwas Deval, was constituted. The enquiry committee conducted enquiry against the petitioner and after conclusion of the enquiry the report was prepared wherein out of 5 charges, charges No. 1, 2, 4 & 5 were held to be proved. Acting on the report of the enquiry committee, the Secretary of the respondent institute dismissed the appellant from

service by termination order dated 31.3.2003.

4. Being aggrieved by the said termination order, the appellant filed the appeal before the Tribunal, which, after hearing both sides, came to be dismissed by the Presiding Officer on the ground that the enquiry was held legally and properly and there was sufficient defence to draw the conclusion which the Committee had drawn and hence the order of termination was held legal and valid. Hence the present petition.

5. At the outset, it may be noted that, following charges are seen to be framed in the course of the enquiry against the present petitioner:-

> "(i) The appellant was responsible for the death of girl student Miss Urmila Barate and that appellant destroyed lives of number of other girl students.
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> (ii) At the time of two long tours, appellant allowed outsider to participate in the tour without proper permission of the principal of the college during tours appellant developed objectionable relations with girl students and

in spite of warning by other professors, appellant did not improve his conduct.

(iii) The appellant did not observe the college time and used to arrive in the college late. Inspite of oral warning by the Principal, appellant did not improve his conduct.

(iv) The appellant impressed girls of tender age by giving them false promises and consequently appellant was responsible for the mental disorder of girl students who suffered rule mental shock. The appellant destroyed the career of number of girl students.

(v) The appellant misused the blank signed letters of Prin. Dr. Shri Anil Parkhi and tried to procure loan from the bank by committing forgery."

Out of the above charges, all the charges came to be proved except one i.e. Charge No.3 which pertains to non-observance of discipline of the college regarding timing inspite of oral warning from the Principal.

However, it was held by the enquiry committee that the charge was proved against the petitioner to the effect that he was responsible for the death of a girl student Miss Urmila Barate and he had destroyed lives of number of other girl students. It was also held that in the course of long tours, the petitioner developed objectionable relations with girl students inspite of other professors and he did not improve his conduct. It was further held that the petitioner impressed girls of tender age for giving them false promises and consequently he was responsible for mental disorder of girl students who suffered mental shocks and thereby destroyed career of number of girl students. Finally, it was held that it was proved that the petitioner had misused blank signed letters of Principal Dr. Anil Parkhi and tried to procure the loan from the bank by committing forgery.

The learned counsel for the petitioner brought to my notice the features of the judgment of the Tribunal and made statement that the charges were vague. It was submitted that names of said girls were not mentioned in the charges. In my considered view, by any stretch of imatination it cannot be said that the names of the victims of the petitioner were required to be mentioned

in the body of charges framed against the petitioner especially when the evidence on record which was led against the petitioner was quite clear in order to give him proper notice as to what charge he was required to answer and defence was required to be raised in that regard. Hence, it cannot be said that the charges were vague.

The Member of the Tribunal had, at one stage, stated that charges were not happily worded, however, that does not mean that charges were defective to vitiate the entire enquiry proceeding and, therefore, I am satisfied that, on that ground the Tribuanl has committed no error at all in holding that the charges were framed in such a manner so as to give proper notice to the petitioner in order to prepare his defence regarding the evidence which was held in the course of the enquiry against him.

6. It was submitted on behalf of the petitioner that, by virtue of Sec. 60 of the Maharashtra University Act, 1994, the Tribunal had the same authority as the appellate Court under the provisions of the Code of Civil Procedure and, therefore, it was necessary for the Member of the Tribunal to reappreciate the entire evidence on record which was not done and the appeal was

conducted in the manner as a writ petition under Art. 226 of the Constitution of India is heard. No doubt that the learned Tribunal has relied upon various rulings of the Apex Court as well as this Court while discussing the entire evidence on record but that does not mean that the said rulings referred to by the Member of the Tribunal of such nature that the entire appeal was treated as writ petition and not an appeal. This is quite manifest from the duscussion regarding evidence on record as can be seen from contents of paras 27 & 28 of the impugned order.

The learned Member of the Tribunal has stated in para 27 that there were some witnesses who supported the petitioner and it appears that the petitioner did not commit any misconduct during trips. Much was sought to be made of this observation made by the Tribunal with submission that the evidence of such witnesses was not appreciated in proper manner. However, it is quite clear that the evidence of those witnesses were accepted only to the alleged conduct of the petitioner during trips. However, the fact remains on record that there was evidence of number of girl students who deposed against the petitioner and such indications cannot be branded as interested witnesses as they are in fact

independent witnesses.

7. In view of this position, I am satisfied that the learned Member of the Tribunal has appreciated the entire evidence on record in proper perspective, no perversity is found in the reasonings recorded by the Tribunal and, therefore, it is not a fit case to interfere with under Art. 226 of the Constitution of India.

8. In the result, the petition is devoid of any merits and, therefore, stands dismissed with no order as to costs.

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